

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21108

Application **30664** of Terrence G. & Virginia C. Wilson
c/o James C. Hanson Consulting Engineers
444 North Third Street, Suite 400
Sacramento, CA 95814

filed on December 5, 1997, has been approved by the State Water Resources Control Board (SWRCB) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source

- (1) **Unnamed Stream and**
(3) **Unnamed Stream**

Both Tributary to

**Lake Curry tributary Suisun Creek tributary
Chadbourne Slough tributary to Wells Slough
tributary Suisun Slough tributary Suisun Bay
thence San Francisco Bay**

within the County of Napa

2. Location of point of diversion

By California Coordinate System in Zone 2	40-acre subdivision of public land survey or projection thereof	Projected Section	Township	Range	Base and Meridian
(1) North 259,200 feet and East 1,955,650 feet	NE ¼ of SE ¼	11	6N	3W	MD
(3) North 255,300 feet and East 1,958,100 feet	SE ¼ of NW ¼	13	6N	3W	MD

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Recreation and Stockwatering	NE ¼ of SE	11	6N	3W	MD	
	SE ¼ of NW	13	6N	3W	MD	
Irrigation, Frost Protection, and Heat Control	NW ¼ of SE ¼	11	6N	3W	MD	5
	NE ¼ of SE ¼	11	6N	3W	MD	24
	SE ¼ of SE ¼	11	6N	3W	MD	15
	NW ¼ of SW ¼	12	6N	3W	MD	7
	SW ¼ of SW ¼	12	6N	3W	MD	30
	SE ¼ of SW ¼	12	6N	3W	MD	5
	NW ¼ of NW ¼	13	6N	3W	MD	3
	NE ¼ of NW ¼	13	6N	3W	MD	16
	SW ¼ of NW ¼	13	6N	3W	MD	4
	SE ¼ of NW ¼	13	6N	3W	MD	25
	NW ¼ of SW ¼	13	6N	3W	MD	2
	NE ¼ of SW ¼	13	6N	3W	MD	17

The place of use is shown on map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 286 acre-feet per annum to be collected from October 1 of each year to May 31 of the succeeding year as follows: 237 acre-feet per annum in Reservoir #1 and 49 acre-feet per annum in Reservoir #3.

(0000005D)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(0000005I)

The capacity of the reservoirs covered under this permit shall not exceed 286 acre-feet.

(0000005N)

6. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2010. (0000009)
7. The SWRCB reserves jurisdiction to impose conditions to conform this permit to SWRCB policy on use of water for frost protection. Action by the SWRCB will be taken only after notice to interested parties and opportunity for hearing. (0000020)
8. Permittee shall install and maintain an outlet pipe of adequate capacity in each dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoirs which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipes, or alternative facility, to the Chief of the Division of Water Rights for approval. Before storing water in the reservoirs, permittee shall furnish evidence, which substantiates that the outlet pipes have been installed in each dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043AP)
9. If the storage dam will be of such size as to be within the jurisdiction of the Department of Water Resources as to safety, construction under this permit shall not be commenced until the Department has approved the plans and specifications for the dam. (0360048A)
10. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees, and other vegetation, which would interfere with the use of the reservoir for water storage and recreational purposes. (0120050A)
11. Within six months of the issuance of this permit, the Permittee shall submit a Compliance Plan for approval by the Chief of the Division of Water Rights that will demonstrate compliance with the flow bypass terms specified in this permit. The Compliance Plan shall include the following:
 - a) A description of the physical facilities (i.e., outlet pipes, siphons, pipelines, bypass ditches, splitter boxes etc.) that will be constructed or have been constructed at the project site and will be used to bypass flow.
 - b) A description of the gages and monitoring devices that will be installed or have been installed to measure stream flow and/or reservoir storage capacity.
 - c) A time schedule for the installation of these facilities.
 - d) A description of the frequency of data collection and the methods for recording bypass flows and storage levels.
 - e) An operation and maintenance plan that will be used to maintain all facilities in good condition.

The Permittee shall be responsible for all costs associated with developing the Compliance Plan, and installing and maintaining all flow bypass and monitoring facilities described in the Compliance Plan.

The monitoring data shall be maintained by the permittee for ten years from the date of collection and made available to the Chief of the Division of Water Rights, upon request. Any non-compliance with the terms of the permit shall be reported by the permittee promptly to the Chief of the Division of Water Rights

Diversion and use of water prior to approval of the Compliance Plan and the installation of facilities specified in the Compliance Plan is not authorized.

(0000070)

12. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the Board concerning protection of beneficial uses of water in San Francisco Bay and Suisun Marsh. Action to change the season of diversion will be taken only after notice to interested parties and opportunity for hearing.

(0000094A)

13. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects ; nailed and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend appropriate mitigation. Project related activities in the areas of the land shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.
14. No debris, soil, silt, cement that has been set, oil, or other such foreign substances will be allowed to enter into or be placed where it may be washed by rainfall runoff into the waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.
15. Prior to any soil or vegetation disturbance, Permittee shall obtain approval from the County of Napa for the development of each Place of Use and Point of Diversion as scheduled for development. A copy of the County's approval, and any erosion control or vegetation preservation plans, for each phase shall be forwarded to the State Water Resources Control Board, prior to the commencement of the scheduled development. Permittee shall comply with all the conditions required by the County of Napa insofar as they are not inconsistent with the terms of this permit.

16. For the protection of wetland marsh habitat supporting fish, wildlife and other public trust resources adjacent to Lake Curry, Permittee shall during the period from October 15 until May 15, bypass a minimum of 0.10 cubic feet per second at Point of Diversion number three (POD#3) located within the SE¼ of NW¼ of section 13, T6N, R3W, MDB&M as shown on a map on file with the State Water Resources Control Board.

The total stream flow shall be bypassed whenever it is less than the designated amount.

17. No water shall be diverted under this permit at Point of Diversion 3 until Permittee has installed a device at Point of Diversion 3, satisfactory to the State Water Resources Control Board which is capable of bypassing the flows required by the conditions of this permit. Permittee shall submit their plans for bypassing the required flows to the SWRCB prior to diverting any water at Point of Diversion 3. Permittee shall furnish evidence that said bypass structure has been installed prior to diverting any water at Point of Diversion 3.
18. No construction shall be commenced and no water shall be used under this permit until the Permittee has completed a consultation with the U.S. Army Corps of Engineers. The consultation must include consideration of the potential fill of seasonal wetlands under section 404 of the Clean Water Act.
19. The Permittee shall obtain all necessary federal, state and local agency permits required prior to construction and diversion of water. Copies of such permits and approvals shall be forwarded to the Chief, Division of Water Rights.
20. For the protection of riparian habitat, Permittee shall establish a minimum setback of 25 feet along the affected Unnamed Streams with the exception to parts of the Unnamed Streams that are within the reservoir construction zone. The stream setback shall be measured from the top of the bank on both sides of the stream. No activity shall occur within the setback area including, but not limited to, grading, roads, fencing, storage areas, and irrigation, with the exception of access roads. Permittee shall restrict cattle or other domestic stock access to the riparian area. These requirements shall remain in effect as long as water is being diverted under any permit or license issued pursuant to Application 30664.
21. Permittee shall comply with all phases of the *Oak Tree Vegetation Plan for Terrence G. and Virginia C. Wilson, Rancho Chimiles, August 2000*. Any changes to the plan must be approved by the Department of Fish and Game, and sent to the Chief, Division of Water Rights for approval. Photo documentation showing the completion of the *Oak Tree Vegetation Plan for Terrence G. and Virginia C. Wilson, Rancho Chimiles, August 2000*, shall be submitted to the Chief, Division of Water Rights, five years after the date of this permit.
22. The historic feature identified as the Wilson Well in *A Cultural Resources Survey of a Portion of Rancho Chimiles, 1360 Wooden Valley Road, Napa County, California, July 11, 2000*; prepared by Toni Douglass and Tom Origer of Tom Origer & Associates, shall not be affected by project related developments, including developments related to the water

diversion, storage and distribution facilities, or the installation and maintenance of vineyards proposed in Application 30664.

The location of the historic site referred to as the Wilson Well on the cultural resource report shall be protected by excluding it with a stock, pole, or wire mesh fence. Future developments at this location may be permitted if further archival research is completed to document the historical context of the well.

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued. (0000010)
- C. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and

opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable SWRCB to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.


Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated:

JUN 19 2001

STATE WATER RESOURCES CONTROL BOARD



Harry M. Schueller, Chief
Division of Water Rights